



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

W.P.No.20531 of 2010

Madras Fertilizers Staff Union,
(Regd.No.411/MDS),
Represented by its General Secretary,
No.3, Dr.Vasudevan Street,
Kilpauk, Chennai – 600 010.

... Petitioners

Vs

1.Madras Fertilizers Limited.,
Represented by its Chairman & Managing Director,
Manali, Chennai – 600 068.

2.Additional Manager (Admn & IR),
Madras Fertilizers Limited.,
Manali, Chennai – 600 068.

3.Madras Fertilizers Employees'
Progressive Union,
24, North Mada Street, Tiruvottiyur,
Chennai – 600 019.

... Respondents

Page No: 1/12



WEB COPY

PRAYER:-Writ of Certiorari calling for the records and papers relating to the impugned letter issued by the 2nd respondent dated 17.07.2009 granting recognition to the 3rd respondent Union and quash the same.

For Petitioner : K.M.Ramesh
Senior Counsel
for Mr.K.G.Vipra Narayanan

For Respondents : Ms.Rita Chandrasekaran
for M/s.Aiyar & Dolia

ORDER

This Writ Petition is filed by the petitioner challenging the impugned letter issued by the 2nd respondent dated 17.07.2009 granting recognition to the 3rd respondent Union and to quash the same.

2. The Petitioner herein is a registered Union with Registration No.4111/MDS. The 1st respondent company is a public sector undertaking under the Government of India. Elections were conducted

Page No: 2/12



WEB COPY

on 28.01.1998 and 03.02.1998 and the petitioner herein was declared as the representative of the entire non-supervisory staff by the 1st respondent/Management vide its letter dated 20.05.1998. Originally, the 1st respondent recognised the petitioner Union herein as the only spokesperson and representative of the non-supervisory staff and employees. According to the petitioner herein, the friction between the petitioner Union and the 1st respondent/Management started with the advent of the new Chairman and Managing Director by name S.Muralidharan who took charge in July, 2008. The petitioner herein sent a letter through fax dated 23.03.2009 to the Secretary, Department of Fertilizers, Ministry of Chemicals and Fertilizers, Government of India on 23.03.2009 against the Chairman and Managing Director. The Secretary to the Government, on the basis of the letter sent by the petitioner Union took action against the Chairman and Managing Director. The petitioner stated that as a counter blast, the Chairman Managing Director took adverse steps against the petitioner herein by supporting the 3rd respondent/Union which was started during the

Page No: 3/12



WEB COPY

month of April, May, 2009. As the then CMD of the 1st respondent started extending facilities to the 3rd respondent/Union the petitioner herein issued a legal notice to the 1st respondent on 16.07.2009, apprehending that the rival union, ie., 3rd respondent would be granted recognition. But on the very next day of the legal notice, the letter dated 17.07.2009 was issued granting recognition to the 3rd respondent. Further, the 1st respondent issued an order dated 16.09.2009 de-recognizing the petitioner Union which was challenged before this Court in W.P.No.19637 of 2009 by the petitioner Union and the same was allowed by this Court on 02.11.2009. The petitioner has filed the present writ petition challenging the impugned letter dated 16.07.2009 of the 1st respondent granting recognition to the 3rd respondent.

3. The respondent/Management filed a detailed counter denying all the averments made in the Writ Petition. According to the 1st respondent/Management, there was rivalry among the workmen of the petitioner herein and a group of their members for not conducting



WEB COPY

elections for the Office Bearers and so the said group broke away from the petitioner union and formed the 3rd respondent union. According to the 1st respondent/Management, the formation of the 3rd respondent was solely on account of interse rivalry in the petitioner/Union and it had nothing to do with the same. According to the 1st respondent/Management, on registration of the new union, they approached the 1st respondent/Management for recognition and other facilities as applicable to the registered union and the 1st respondent/Management after verifying the membership of the new union through check off system granted recognition on 17.07.2009. Therefore, the 1st respondent contended that there was no illegality in the impugned order. It was further stated that the petitioner Union was granted status during May 1998 on a condition that union shall continue to enjoy the status until fresh elections were held and till the results were notified. Till May 2009, there was no contesting Union and therefore, the petitioner Union was allowed to enjoy the status of Sole Collective Bargaining Body and after the formation of the new union



WEB COPY

which came into existence in May 2009, the Management was negotiating with both the Unions. According to the Management, the petitioner union ought to have challenged the recognition immediately after the 3rd respondent was granted recognition on 17.07.2009. As the petitioners failed to challenge the recognition granted to the 3rd respondent within 1 year under the Code of Discipline for Recognition of Unions, the petitioner's challenge could not be entertained.

4. At the time of hearing, the learned counsel for the petitioner relied on the averments raised in the Writ Petition stating that the recognition granted by the 1st respondent/Management to the 3rd respondent/Union was malafied, colourable and excessive of its power. The learned counsel further submitted that the 1st respondent/Management ought not to have granted recognition to the 3rd respondent as no election was conducted before granting recognition to the 3rd respondent. Whereas recognition to the petitioner's union was granted only after verifying the membership of the Union through the

Page No: 6/12



WEB COPY

Check Off System, the 1st respondent/Management without following the same procedure for the 3rd respondent, accorded recognition to it.

5. Per contra, the learned counsel for the 1st respondent/Management submitted that as per the Code of Discipline for recognition of Union, challenge to the recognition of the 3rd respondent ought to have been made within one year of granting recognition. As the challenge was made beyond one year as per the criteria for recognition of union, the same cannot be entertained. The learned counsel further submitted that right from the year 2009, when the 3rd respondent union was recognised, the 1st respondent/Management was bargaining with both the unions and hence no prejudice was caused to the petitioner's Union. The learned counsel, hence prayed for dismissal of the Writ Petition.

6. Heard, the rival submissions of the respective counsels and

Page No: 7/12



WEB COPY

perused the materials available on record before this Court.

7. On perusal of records, it is seen that the criteria for recognition of Unions in the Code of Discipline for Recognition of Unions reads as follows:-

“CRITERIA FOR RECOGNITION OF UNIONS

(1)Where there is more than one union, a union claiming recognition should have been functioning for at least one year after registration. Where there is only one union, this condition would not apply.”

8. It is seen from the above that the criteria for recognition is that the Union should have been functioning for at least one year. The learned counsel for the respondent/Management submitted that by the time the Writ Petition challenging the recognition was filed, one year had lapsed. The learned counsel for the petitioner tried to explain the delay by stating that the 1st respondent/Management had de-recognised the petitioner's Union on 16.08.2009 and as the petitioner Union was agitating the same, the challenge could not be made within the stipulated period. I am afraid the said contention of the petitioner's

Page No: 8/12



WEB COPY

counsel cannot be countenanced for the reason that the recognition was granted to the 3rd respondent on 17.07.2009 and the Writ Petition was filed on 02.09.2010 which was beyond the one year period. The de-recognition order against the petitioner union was passed on 16.09.2009 and the same was challenged in W.P.No.19637 of 2009 and was allowed by this Court on 02.11.2009. The Writ Petitioner waited for 10 months thereafter and filed the present Writ Petition on 02.11.2009. I am, therefore of the view that as per the Code of Discipline and the Criteria, stated therein, the challenge to the recognition beyond one year cannot be entertained.

9. It is further to be noted that the 1st respondent/Management has been negotiating with both the unions and both the unions have been participating in all the decisions. If the petitioner union was really aggrieved by the 3rd respondent's recognition, then the petitioner should have got stay of recognition and diligently prosecuted the Writ Petition. It is seen that though the notice to the respondent was ordered as early

Page No: 9/12



WEB COPY

as on 07.09.2010, the writ petition was kept pending for over a period of 13 years without any interim order. As rightly contented by the learned counsel for the 1st respondent/Management, the 3rd respondent union was allowed to participate in the negotiations along with the petitioner union for the past 13 years that too without any protest by the petitioner's Union. I am, therefore of the view that there are no merits in the Writ Petition and the same is liable to be dismissed.

10. Accordingly, this Writ Petition stands dismissed. No costs.

12.10.2023

gba

Neutral citation : Yes/ No

Speaking Order : Yes/ No

Index : Yes/ No

Neutral Citation : Yes/No

To

1.Chairman & Managing Director,
for Madras Fertilizers Limited.,
Manali, Chennai – 600 068.

Page No: 10/12



WEB COPY

2. Additional Manager (Admn & IR),
Madras Fertilizers Limited.,
Manali, Chennai – 600 068.

3. Madras Fertilizers Employees'
Progressive Union,
24, North Mada Street, Tiruvottiyur,
Chennai – 600 019.

N.MALA, J.

gba

W.P.No.20531 of 2010



WEB COPY



12.10.2023

Page No: 12/12